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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,489	02/29/2000	Somnath Banik	BANIK 2-73	2128

27964                      7590                      07/25/2003

HITT GAINES P.C.  
P.O. BOX 832570  
RICHARDSON, TX 75083

EXAMINER

NGUYEN, TU X

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 07/25/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/514,489

Applicant(s)

BANIK ET AL.

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26/10/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 8 and 15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 6, 8-9, 13, 15-16 and 19, are rejected under 35 U.S.C. 102(e) as being anticipated by McDonald et al. (US Patent 6,122,271).

Regarding to claims 1-2, 8-9 and 15-16, McDonald et al. disclose for use in communicating data over a voice channel (see col.4 lines 31-36), "TDMA" corresponds to "voice channel", between a transmitter and a receiver, a system comprising:

a silence detector (see col.3 lines 37-38), coupled to said transmitter (32, fig.1), that identifies a pause in voice traffic that is to be transmitted over said voice channel and generates an interjection signal during said pause (see col.3 lines 58-67);

data injector (24-31, fig.1), coupled to said silence detector, that receives said interjection signal and responds by causing said transmitter to transmit data to said receiver (see col.4 lines 1-15), wherein said transmitter is associated with a base station

of a cordless telephone and said receiver is associated with a handset of said cordless telephone (see fig.2).

Regarding to claims 6, 13 and 19, McDonald et al. disclose said transmitter transmits said voice traffic in frames (see col.4 lines 55-65).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 11 and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. and further in view of Parikh et al. (US Patent 6,408,177).

Regarding to claims 4, 11 and 17, McDonald et al. fail to disclose said data comprises caller identification data.

Parikh et al. disclose data comprises caller identification data (col.11 lines 24-26). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of McDonald et al. with the above teaching of Parikh et al. in order to provide call management services such as call screening in conjunction with subscribers.

Regarding to claims 5, 12 and 18, McDonald et al. fail to disclose said data comprises menu item selection data.

Parikh et al. disclose said data comprises menu item selection data (see fig.7b). Therefore, it would have been obvious to one of ordinary skill in the art at the time the

Art Unit: 2684

invention was made to modify the system of McDonal et al. with the above teaching of Parikh et al. in order provide user flexibility to transmit data or voice messages.

5. Claims 7, 14 and 20 are rejected under 35 U.S.C. 103(e) as being unpatentable over McDonald et al. and further in view of Sumner (US Patent 6,041,227).

Regarding to claims 7, 14 and 20, McDonald et al. fails to disclose said silence detector identifies said pause by comparing a peak energy of said voice traffic to a noise floor reference.

Sumner disclose said silence detector (see col.2 lines 1-4) identifies said pause by comparing a peak energy of said voice traffic to a noise floor reference (see col.6 lines 6-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of McDonald et al. with the above teaching of Summer in order to predict periods of silent more accurately.

### Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is (703) 305-3427. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, MAUNG NAY A, can be reached at (703) 308-7749.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 Customer Service Office at (703) 306-0377.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

July 8, 2003

*Thick Corcoran*